

# **Exhibit F**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

IN RE: )  
 )  
 ) Case No.  
FTX TRADING LTD., et al. )  
 ) 22-11068 (JTD)  
Debtors. )

EXAMINATION OF  
FOTIOS KONSTANTINIDIS

---

TAKEN ON

TUESDAY, FEBRUARY 27, 2024

CERTIFIED STENOGRAPHER:

JESSIE WAACK, RDR, CRR, CCRR, NYRCR, NYACR,  
CCR-NJ (No. 30XI008238700) CSR-TX (No. 11958)  
CCR-WA (No. 21007264), CSR-CA (No. 14420),  
REALTIME SYSTEMS ADMINISTRATOR  
JOB NO.: 1105009

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EXAMINATION of  
 FOTIOS KONSTANTINIDIS, taken before  
 JESSICA R. WAACK, Registered Professional  
 Reporter, Registered Merit Reporter,  
 Certified Realtime Reporter, Registered  
 Diplomate Reporter, California Certified  
 Realtime Reporter, New Jersey Certified Court  
 Reporter (License No. 30XI008238700); Texas  
 Certified Shorthand Reporter (License No.  
 11958); Washington State Certified Court  
 Reporter (License No. 21007264); California  
 Certified Shorthand Reporter (License No.  
 14420); New York Association Certified  
 Reporter, New York Realtime Court Reporter  
 and Notary Public of Washington, D.C. and the  
 States of New York, Pennsylvania, Delaware,  
 Maryland and Virginia, at Sullivan &  
 Cromwell, LLP, 125 Broad Street, New York,  
 New York, on Tuesday, February 27, 2024,  
 commencing at 9:06 a.m. and concluding at  
 12:13 p.m.

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## A P P E A R A N C E S

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BEN CHAPPLE, Reed Smith

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ISAAC FOOTE, Sullivan & Cromwell

CHING WATSON, FTI

JOH MIRAGLIA, Reed Smith

KURT WYNNE, Reed Smith

DENNIS O'DONNELL, DLA Piper

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<p>1 F. KONSTANTINIDIS - 02/27/2024</p> <p>2 *****</p> <p>3 PROCEEDINGS</p> <p>4 February 27, 2024, 9:06 a.m.</p> <p>5 New York, New York</p> <p>6 *****</p> <p>7 FOTIOS KONSTANTINIDIS, sworn</p> <p>8 on oath and/or affirmed, called as a</p> <p>9 witness herein, was examined and testified</p> <p>10 as follows:</p> <p>11 *****</p> <p>12 MR. TOROSIAN: Brian, before you</p> <p>13 begin, so when we -- this can be on the</p> <p>14 record. When we object, since he's</p> <p>15 both of our experts, we assume an</p> <p>16 objection for one is an objection for</p> <p>17 both --</p> <p>18 MR. GLUECKSTEIN: Yes.</p> <p>19 MR. TOROSIAN: -- and we don't</p> <p>20 have to speak over the record.</p> <p>21 MR. GLUECKSTEIN: That's fine.</p> <p>22 MR. TOROSIAN: The only exception</p> <p>23 might be privilege, since we have</p> <p>24 separate privileges, but I'm probably</p> <p>25 going to take the lead on objections</p>	<p>1 F. KONSTANTINIDIS - 02/27/2024</p> <p>2 and he doesn't need to say join, join,</p> <p>3 join.</p> <p>4 MR. GLUECKSTEIN: Yeah, that's</p> <p>5 fine.</p> <p>6 EXAMINATION</p> <p>7 BY MR. GLUECKSTEIN:</p> <p>8 Q. Good morning --</p> <p>9 A. Good morning.</p> <p>10 Q. -- Mr. Konstantinidis. My name</p> <p>11 is Brian Glueckstein. I am an attorney at</p> <p>12 Sullivan &amp; Cromwell. I represent the FTX</p> <p>13 debtors.</p> <p>14 Mr. Konstantinidis, as you know,</p> <p>15 you are under oath this morning testifying</p> <p>16 despite the judge not being in the room.</p> <p>17 Do you understand that?</p> <p>18 A. Yes.</p> <p>19 Q. Just a couple of rules just to</p> <p>20 make sure that we get a clean record for</p> <p>21 today. Please allow me to finish my</p> <p>22 answer -- my question before you give your</p> <p>23 answer, and I'll allow you to do the same</p> <p>24 so that the court reporter can record a</p> <p>25 transcript accurately.</p>

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Is that okay?

A. Yes.

Q. If you don't understand any of my questions, please be sure to ask me to clarify or restate the question so that I am sure that if you answer the question, you understood the question.

Does that make sense?

A. Yes.

Q. If your attorneys, counsel ask -- interpose an objection, you will still need to give me an answer to that question unless they instruct you not to answer.

Do you understand that?

A. Yes.

Q. If you need a break at any time this morning, just let us know. Happy to take a break. I'll just ask that you answer if there's a pending question before a break.

A. Yes.

Q. Is there any reason that you're aware of where you're not capable of giving complete and accurate testimony this

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morning?

A. No.

Q. Sir, have you been deposed before?

A. No.

Q. Have you testified in court?

A. No.

Q. To prepare for today's deposition, what did you do to prepare for this morning?

A. I read my original report. I also read the report from both the opposing experts, Professor Howell and Mr. Lu. Both the original reports and the rebuttal reports as well as some reference papers that they used for the reports.

Q. Did you review any other materials before -- to prepare for this morning?

A. Like I said, I reviewed the reports, the rebuttals, some references. I don't quite remember which ones, but what I thought was the most important for the reports.

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Q. Did you speak with anybody in anticipation for preparing for this morning?

A. I spoke to the lawyers from DLA Piper and Reed Smith.

Q. Did you speak to both of them at the same time?

A. No.

Q. You had separate meetings?

A. Separate meetings.

Q. How long were those meetings?

A. I had a meeting with DLA Piper for one hour last Thursday, a second meeting on Friday for two hours, and a meeting with Reed Smith for about 20 minutes on Saturday morning.

Q. During the course of those meetings, did you review any documents?

A. No.

MR. GLUECKSTEIN: Let's mark the first two exhibits. These are his reports.

(Whereupon, Exhibit 1, is marked for identification.)

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(Whereupon, Exhibit 2, is marked for identification.)

BY MR. GLUECKSTEIN:

Q. Mr. Konstantinidis, could you take a look at what's been marked first as Exhibit 1.

A. Yes.

Q. Are you familiar with this document?

A. Yes.

Q. What is this document?

A. This is my expert report on behalf of the clients of DLA Piper.

Q. Okay. And Exhibit 2, do you recognize that exhibit?

A. Yes.

Q. And what is that exhibit?

A. This is my report with correspondence to the Foundation Elements and Foundation Serendipity. These are the Reed Smith clients.

Q. Do these reports together contain a complete statement of the opinions that you currently intend to provide in this

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2 matter?

3 A. By saying "complete," what do you  
4 mean?

5 Q. Are you offering opinions on any  
6 subjects that are outside Exhibits -- the  
7 scope of Exhibits 1 and 2?

8 A. These are my reports, but based  
9 on the -- on your questions, I will clarify  
10 my opinions --

11 Q. Okay.

12 A. -- or provide additional  
13 insights.

14 Q. And with respect to the -- are  
15 you -- you're intending to testify at the  
16 hearing on March 20 before the Court?

17 A. Yes.

18 Q. Are you intending to provide  
19 testimony and offer opinions on any  
20 subjects that are not contained in  
21 Exhibits 1 and 2?

22 A. I will be testifying based on my  
23 opinions; however, based on the questions,  
24 I may expand on my opinions.

25 Q. Have any of your opinions changed

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2 Q. And you're not offering an  
3 opinion on any alternatives to a  
4 liquidation?

5 A. My opinions are strictly on  
6 valuing the portfolios as of the petition  
7 date and time.

8 Q. Similarly, Mr. Konstantinidis,  
9 you're not offering any opinion with  
10 respect to trading strategies or other ways  
11 the debtors might monetize their token  
12 portfolio, correct?

13 A. Correct. That's out of the scope  
14 of my opinions.

15 Q. And you're not suggesting that  
16 the debtors should hedge or short or do  
17 anything else with respect to their tokens  
18 with respect to monetization of those  
19 tokens, correct?

20 A. Correct.

21 Q. Are you familiar with the concept  
22 of burning tokens?

23 A. Yes.

24 Q. What is the concept of burning  
25 tokens?

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2 in any way since you completed and executed  
3 your reports reflected in Exhibits 1 and 2?

4 A. No, they haven't.

5 Q. Is there anything in those  
6 reports that you would like to amend or  
7 clarify with respect to the testimony  
8 that -- or not testimony, with respect to  
9 the opinions that are contained in those  
10 reports?

11 A. No, I don't.

12 Q. Mr. Konstantinidis, you're not  
13 offering an opinion on any alternative ways  
14 that the debtors could try to realize value  
15 from Maps, Oxy or Serum, are you?

16 A. The scope of my opinions were to  
17 value the portfolios of the four entities.  
18 It wasn't in scope to determine how the  
19 liquidation of the debtors' side will take  
20 place.

21 Q. So you're not offering an opinion  
22 on how the debtors would liquidate those  
23 assets?

24 A. I'm not offering an opinion on  
25 how the liquidation will be implemented.

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2 A. Well, in many cases, either  
3 individuals or entities, they will decide  
4 to burn tokens, basically throw them away  
5 from the wallet ID so -- for different  
6 strategies.

7 Q. You're not offering an opinion  
8 that the debtors should be burning Maps,  
9 Oxy or Serum tokens in this case, are you?

10 A. Again, solely my opinions was to  
11 value the portfolios.

12 Q. So you're not offering an opinion  
13 with respect to whether it makes sense for  
14 the debtors to burn tokens in this matter,  
15 are you?

16 A. I'm not offering any opinions  
17 about potential strategies from the  
18 debtors.

19 Q. Did you have -- in completing the  
20 analysis and opinions reflected in your  
21 reports, did you have assistance from  
22 anyone in completing that work?

23 A. Yes, I did.

24 Q. Who assisted you?

25 A. I had two members of my team that

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 assisted me in the data analysis and also  
 another person that assisted me with a  
 blockers discount model with a model that I  
 use for valuation.

Q. Are these other employees at  
 Stout?

A. There are other -- in general?

Q. No. Are the -- are the  
 individuals who assisted you other  
 employees of Stout?

A. Yes.

Q. What was their role in the  
 analysis compared to yours?

A. The role of one of them was to  
 analyze the data we received. The role of  
 the second was to mine the blockchain so we  
 can get cryptocurrency data. The third one  
 was to run the Stout valuation model under  
 my guidance.

Q. If you could look at Exhibit B to  
 what is Exhibit 1 of your report, your  
 report that you filed on behalf of the DLA  
 clients.

A. Uh-huh.

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A. No.

Q. Do you hold any degrees in  
 economics?

A. No.

Q. Do you hold any professional  
 certifications or licenses in either  
 finance or economics?

A. No.

Q. Do you hold any degrees in  
 valuation?

A. What do you mean "degrees in  
 valuation"?

Q. Do you have any -- either  
 educational degrees or professional  
 certifications in valuation.

A. As far as I know, there's no  
 degree in valuation. So you mean  
 certification or...

Q. Any -- whether it be  
 certification, licensing, professional --

A. No.

Q. Based on your CV, sir, I  
 understand you've been with Stout since  
 August of 2019; is that correct?

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Q. Exhibit B there is a copy of your  
 CV; is that correct?

A. Exhibit B or Exhibit 1?

Q. Exhibit B to that document, sir.

A. Oh, okay. Okay.

Q. Is that a copy of your CV?

A. Yes.

Q. Is that CV still accurate as we  
 sit here today?

A. Yes.

Q. Mr. Konstantinidis, I understand  
 from your CV that you obtained an  
 undergraduate degree in physics in Greece;  
 is that correct?

A. That's correct.

Q. Then you attended UCLA for  
 graduate school; is that right?

A. Yes.

Q. What degrees did you obtain in  
 connection with your graduate studies?

A. I obtained a master's in space  
 physics and a master's in computer science.

Q. Do you hold any degrees in  
 finance?

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A. Yes.

Q. Okay. And prior to your role  
 joining Stout, did you do any work  
 performing asset valuation?

A. No.

Q. Prior to joining Stout, in your  
 experience, did you have any experience  
 with application of asset discounts?

A. No.

Q. Prior to your joining Stout in  
 2019, did you have any professional  
 experience with respect to digital assets?

A. Yes.

Q. Can you explain for me that  
 experience prior to joining Stout?

A. Yes. That experience was with  
 Visa, obviously the biggest payment  
 network, between 2015 and 2017. There were  
 multiple prototypes on the blockchain  
 network. And products I built with startup  
 at Visa was investing -- investing in  
 chain.com.

At McKinsey, there were clients  
 that I was working for that they had

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2 blockchain.

3 And in my most recent employ just  
4 before Stout, I worked on the blockchain  
5 for specific use cases for the fintech  
6 industry.

7 Q. And what do you mean by that,  
8 when you say work on the blockchain? What  
9 were you actually doing?

10 A. I was actually using blockchain  
11 to identify customers. So I knew the  
12 intricacies of the blockchain and how it  
13 works, which is the main platform for  
14 digital assets.

15 Q. And was either of those -- either  
16 of those experiences -- neither of those  
17 experiences involved valuation of digital  
18 assets, correct?

19 A. Correct.

20 Q. Okay. Turning to your time at  
21 Stout.

22 On the first page of your CV, you  
23 list under the heading of Stout you're the  
24 global practice lead offering five service  
25 lines there --

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2 primarily for tax purposes, and two of them  
3 were for financial reporting from companies  
4 that they invest.

5 And one of them actually was the  
6 Celsius bankruptcy where I valued close to  
7 130 cryptocurrencies.

8 Q. And was the valuation you did in  
9 Celsius, does that fall within your  
10 category of tax purposes or financial  
11 purposes?

12 A. That one was primarily for  
13 financial reporting. That was the  
14 instructions.

15 Q. And you did not -- did you submit  
16 a report in the Celsius bankruptcy?

17 A. There was the report that was  
18 submitted by Alvarez & Marsal on our  
19 behalf, but my analysis was part of the  
20 report.

21 Q. And you did not testify in the  
22 Celsius bankruptcy?

23 A. There was one of my colleagues  
24 that testified.

25 Q. Okay. But you did not?

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2 A. Uh-huh.

3 Q. -- do you see that?

4 A. Yep. Yes.

5 Q. Do any of these service lines  
6 that you are the practice lead for focus on  
7 asset valuation?

8 A. Yes. The second one, the data  
9 analytics and business intelligence.  
10 This is on our website, the one we have --  
11 the one we list the digital assets  
12 subpractice line, if you will.

13 Q. And what is the -- you know, what  
14 is the scope of the work that you do at  
15 Stout or have done at Stout in the area of  
16 valuation that falls under that business  
17 line?

18 A. I valued cryptocurrencies and  
19 NFTs, non-fungible tokens.

20 Q. Okay. With respect to valuation  
21 of cryptocurrencies, can you elaborate on  
22 your experience there?

23 A. Yes. Purely for cryptocurrencies  
24 in the last two years, I had about eight  
25 valuation projects. Six of them were

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2 A. I did not.

3 Q. Does any of your work at Stout as  
4 the global digital practice lead, do you  
5 have experience, specific experience with  
6 respect to determining asset discounts  
7 prior to this matter?

8 A. Yes.

9 Q. Can you explain your experience  
10 in that area?

11 A. Those projects that I mentioned  
12 before with cryptocurrencies for IRS  
13 purposes --

14 Q. Uh-huh.

15 A. -- and even for financial  
16 reporting, they had discounts in them that  
17 I had to calculate.

18 Q. Okay. So when you say  
19 "discount," when you say that you  
20 calculated discounts for IRS purposes --

21 A. Uh-huh.

22 Q. -- can you walk me through what  
23 that type of assignment would be, what you  
24 would actually do?

25 A. Yes. An individual or an entity



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that holds certain cryptocurrency tokens  
that would, like Stout, which I  
represented, to value their portfolio for  
tax purposes for IRS.

Q. Okay. When you say for -- the  
engagements you had for -- when you say for  
financial reporting purposes, that would  
have been reporting purposes that the  
company could report to whom? To  
regulators?

A. Either regulators, the. SEC or  
even for themselves internally; they want  
to know how much their assets are valued  
at.

Q. Okay. So how, in the course of  
those analyses, does -- were you asked to  
conduct asset discounts as part of that  
analysis? How does that play into the  
analysis?

A. What do you mean how? Can you  
rephrase?

Q. Well, you testified a minute ago  
that part of the work you did on these  
valuation, crypto valuation projects for

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and that's the one that I used on those IRS  
projects as well.

Q. Okay. And did you do any -- was  
your -- the analysis that you would have  
done for your engagements, valuation for  
financial reporting purposes, would you  
have conducted a different type of  
analysis?

A. Yes. Financial reporting has  
certain account liquidation that they don't  
care about the blocks, so meaning the  
volume.

So in this case the discounts  
come from the fact of staked, which are  
like locked tokens, staked Ether, for  
example, staked Bitcoin. They can be  
staked in a third-party platform. They can  
be staked in the defi protocols.

There are different approaches.  
But there is definitely a different  
discount than the one applied for IRS  
purposes.

Q. Prior to this engagement, how  
many times have you been engaged as an

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tax or financial purposes included  
calculating discounts --

A. Uh-huh.

Q. -- of cryptocurrencies?

How did that -- you know, what  
type of discounts were you calculating in  
those projects?

MR. ROSTOCKI: Objection. Form.

THE WITNESS: Do you want to talk  
about the discounts on the -- for IRS  
purposes or financial reporting?

BY MR. GLUECKSTEIN:

Q. Let's start with IRS purposes.

What type of discounts were you  
calculating? How was that done?

A. For IRS purposes, I use the exact  
same model that I used here, the blockers  
discount. And it was primarily based on  
volume, that clients hold certain number of  
cryptocurrency tokens and they want to  
understand for IRS purposes what is the  
actual value of that portfolio.

So the blockers discount is the  
same model that I used in this engagement,

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expert witness?

A. You mean prior to this  
engagement?

Q. Prior to this engagement,  
correct.

A. In a court hearing or in general?

Q. You were retained -- well, you  
testified that you have not testified --

A. Correct.

Q. -- in court, right?

Have you submitted expert reports  
to a court prior to this proceeding?

A. Not to a court.

Q. Have you submitted an expert  
report to another judicial body such as an  
arbitration?

MR. TOROSIAN: Object to form.

THE WITNESS: Yes.

BY MR. GLUECKSTEIN:

Q. What context have you submitted  
expert reports in arbitration?

A. Can you rephrase what you mean by  
"what context"?

Q. Well, what have you -- you've

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2 submitted expert reports in arbitration  
3 proceedings?

4 A. Yes.

5 Q. How many times?

6 A. Just once.

7 Q. What was the subject matter of  
8 that expert report?

9 A. Primarily sampling theory,  
10 confidence intervals. That was the  
11 primary -- that was -- I was an expert for  
12 confidence interval and sampling theory.

13 Q. Did you testify in that case?

14 A. I'm not sure if legal it's called  
15 testimony, but, yes, I was -- I was there  
16 in arbitration hearing in person with the  
17 other expert.

18 Q. And you were examined in front of  
19 the arbitration panel?

20 A. Correct.

21 Q. And did that engagement have  
22 anything to do with digital assets?

23 A. No.

24 Q. Do you recall when that -- when  
25 that was?

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2 A. Correct.

3 Q. What was the scope of the  
4 assignment that was given to you by  
5 DLA Piper on behalf of its clients?

6 A. It was to read, study and analyze  
7 the opposing experts' reports and also  
8 provide value for the portfolios.

9 Q. When you say "provide value for  
10 the portfolios," what are you referring to?

11 A. I'm referring to valuing the  
12 portfolios.

13 Q. Portfolios of what?

14 A. Of the two entities that I  
15 represent.

16 Q. With respect to -- a portfolio of  
17 what? Of their cryptocurrency holdings?

18 A. Yes. Of the digital assets.

19 Q. Was that limited in some way to  
20 specific digital assets?

21 A. Well, in this case one of them  
22 had Maps and Serum, and the other had Oxy  
23 and Serum.

24 Q. So you were -- you undertook to  
25 value the holdings of the DLA clients in

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2 A. Maybe a year and a half ago. I  
3 mean, I don't exactly remember, but...

4 Q. How are you engaged in this  
5 matter?

6 A. A colleague of mine from Stout  
7 told me about DLA Piper's sort of, like,  
8 need for an expert to analyze and study the  
9 opposing experts' report and value the  
10 assets.

11 And then he put me in contact  
12 with DLA Piper, and that's how I was  
13 engaged.

14 Q. And how did you become -- were  
15 you separately engaged by Reed Smith on  
16 behalf of those clients?

17 MR. ROSTOCKI: Object to form.

18 THE WITNESS: Again, through the  
19 same colleague of mine, I was  
20 separately engaged also with Reed  
21 Smith.

22 BY MR. GLUECKSTEIN:

23 Q. And so the engagements were --  
24 each came to you through your colleague at  
25 Stout?

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2 Maps, Oxy and Serum?

3 A. Yes.

4 Q. What was the scope of your  
5 assignment in this matter by the -- when  
6 you were retained by the Reed Smith  
7 clients?

8 A. It was, again, to study and  
9 analyze the opposing experts' reports and  
10 provide value for the portfolios of their  
11 clients -- or their digital assets that  
12 they hold.

13 Q. Is it your understanding there's  
14 any difference in scope of your assignment  
15 between those two engagements?

16 A. Well, primarily on the Reed Smith  
17 it was mostly focused on the -- on the  
18 valuation part. That's evident in my  
19 report.

20 And on the DLA Piper side, it was  
21 also a little bit more on the studying and  
22 analyzing the opposing experts' reports.

23 Q. Were there any opinions in this  
24 matter that either clients asked you to  
25 give that you declined to provide?

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A. No.

Q. Had you worked with DLA Piper on any other engagements prior to this one?

A. No.

Q. Do I understand correctly from your report that you're being paid hourly for your services in connection with this litigation?

A. Yes.

Q. Are you receiving any additional compensation or incentives beyond your hourly rate?

A. No.

Q. Mr. Konstantinidis, have you done any prior work with CoinMarketCap?

A. Yes.

Q. When have you worked with CoinMarketCap?

A. In all of this engagements I described before, CoinMarketCap is the main data aggregator that I'm using along with the other two that I put in my report, Coin Paprika and CoinGecko.

Q. So in your work, you generally

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rely on data from CoinMarketCap; is that right?

A. It's one of the sources.

Q. Have you done any work with CoinMarketCap directly as a client?

A. No.

Q. How many -- approximately how many hours have you spent on this engagement between the clients?

A. That's an approximation, because there's no way for me to remember. But I would say approximately 80 hours.

Q. Do you have any sense of how many hours the others on your team spent on this engagement?

A. Less than that definitely.

Q. What is your understanding, Mr. Konstantinidis, of what -- what the Oxy token is?

A. My understanding is that it is a utility and governance token that it's -- it's used for specific fintech use cases like borrowing. And it's a native token for the Oxygen protocol.

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Q. What is the understanding -- what understanding do you have of what the Oxygen protocol is?

A. It provides the -- if you hold the network, that it has governance rules into it where the token lives. It is pretty standard in cryptocurrencies that they have their own network where they reside.

Q. Are you aware of the current status of the Oxygen protocol ecosystem?

A. I wouldn't know the most recent ones, because I didn't check it recently. But it's still active, and it looks like it still has a website and the native token is still trading.

Q. Beyond the native token still trading, and the fact that they have a website, do you have any information one way or the other as to what the Oxygen protocol ecosystem is currently doing, if anything?

A. I think I list that also in my report about its objective.

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Q. I'm sorry. Where are you looking?

A. I'm looking at page 8.

Q. You're looking at paragraph 18 of your report --

A. Paragraph -- yes.

MR. TOROSIAN: Of Exhibit 1, just for clarification.

THE WITNESS: Of Exhibit 1.

BY MR. GLUECKSTEIN:

Q. In determination of -- you're citing to what the -- what you state is the main objective of the Oxygen protocol as stated there in paragraph 18?

A. That this is -- yeah, this is my understanding of the Oxygen protocol, what I have in my report.

Q. And there's nothing in your report about what the current status of the Oxygen protocol ecosystem is today, correct?

A. No. Because the scope was to value everything as of the petition date. Everything that happened after is

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irrelevant.

Q. Did you -- did you assess what the state of the Oxygen protocol ecosystem was on the petition date?

A. Yes.

Q. What did you conclude?

A. I conclude for the petition date and time, it was still existent. And the Oxy token was still penetrating.

Q. What is your understanding of what -- I'm sorry -- I'm sorry. Strike that.

You described Oxy as a utility token, correct?

A. Correct.

Q. What is your understanding of what that means?

A. It means that a cryptocurrency doesn't have only -- only inherent value based on supply and demand, but it also serves certain purposes for the holders of that token.

Q. And so how is Oxy a utility token in this case?

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BY MR. GLUECKSTEIN:

Q. Are you aware of the Oxy token being used in any other networks or protocols?

A. I believe there was, based on the news I checked, I believe there was some kind of a relationship with a Maps token that they were thinking of combining or residing on the same networks.

But I'm not 100 percent sure about other networks that was potentially used.

Q. And you're not aware of whether, in fact, any combination of Maps and Oxy ever happened?

A. I'm not aware of that.

Q. Do you agree that the Oxygen protocol ecosystem was closely tied to FTX?

MR. ROSTOCKI: Objection to form.

THE WITNESS: What do you mean by "closely tied"?

BY MR. GLUECKSTEIN:

Q. Well, however you interpret it. I mean -- let me restate it.

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A. Well, in this case, just like I state in my report, it gives certain rewards, if you will, to the holders of the token as in trading, as in term liquidity, as a passive yield. It provides some kind of an interest.

This is common to cryptocurrencies to provide those rewards for their holders. And that's how they become utility token.

Q. And for those utility tokens to -- for the holders of those utility tokens to realize those benefits, the Oxygen protocol would need to be functioning, correct?

MR. ROSTOCKI: Objection to form.

THE WITNESS: Yes. Unless there is another venue where you can use that token. That's -- in many cases, tokens are native to a protocol like this one, but they can also be residing and existing in other networks or they can be used as well for certain rewards.

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Do you agree that the Oxygen protocol ecosystem was developed closely with FTX?

MR. TOROSIAN: Objection to form.

THE WITNESS: No, I don't know that.

BY MR. GLUECKSTEIN:

Q. You don't know that or you disagree?

A. I don't know that. Not I disagree; I do not know that.

Q. Okay. Are you familiar with the concept that the fundamental value of a token?

A. I'm not aware of what that means, the fundamental value.

Q. You're not aware?

A. I'm not aware of what exactly it means, yes --

Q. So you --

A. -- valuation theory --

Q. I'm sorry.

You don't have a view then on what the -- on whether the Oxy token have

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2 any fundamental value?

3 MR. TOROSIAN: Object to form.

4 THE WITNESS: Unless you define  
5 what is fundamental value, it's not a  
6 term that's used in traditional  
7 valuation theory when you say  
8 fundamental value of a cryptocurrency.

9 BY MR. GLUECKSTEIN:

10 Q. Okay. What is the Serum token?

11 A. The Serum token, like I explain  
12 in paragraph 19, was the most mature of the  
13 three tokens. That was a year before Maps  
14 and Oxy. And it was trading in more crypto  
15 exchanges and it was both a governance and  
16 a utility token.

17 Q. And what's your understanding of  
18 what a governance token is?

19 A. The governance token means that  
20 it's open to the holders that they decide  
21 how to evolve. And also the holders can  
22 determine what is the future state and the  
23 future strategy of that token, in what kind  
24 of rewards, what kind of relationships,  
25 what kind of contracts will take place.

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2 BY MR. GLUECKSTEIN:

3 Q. You say towards the bottom of  
4 that paragraph, "Serum was launched by the  
5 Serum Foundation, a nonprofit organization  
6 established by Alameda Research and FTX."

7 Do you see that?

8 A. Yes.

9 Q. So it is, in fact, your  
10 understanding that Serum was -- the Serum  
11 Foundation was established by Alameda and  
12 FTX, correct?

13 A. Yes.

14 Q. Would you agree with me then that  
15 the Serum exchange was closely tied to FTX  
16 and Sam Bankman-Fried?

17 MR. TOROSIAN: Object to form.

18 THE WITNESS: I don't know about  
19 Sam Bankman-Fried, but definitely with  
20 FTX, because that's how it was created.

21 BY MR. GLUECKSTEIN:

22 Q. And are you aware of Sam  
23 Bankman-Fried's role as the founder and CEO  
24 of FTX and Alameda?

25 A. Are you asking me if the -- if he

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2 Q. And similar to Oxy, to the extent  
3 that Serum is a utility token of the Serum  
4 exchange, its value would be derived from  
5 its role on the Serum exchange itself,  
6 correct?

7 A. Yes. But the Serum token had  
8 more venues where it was trading and was  
9 more mature than the other two tokens.

10 Q. What do you mean by it had more  
11 venues that it was trading?

12 A. More cryptocurrency exchanges.

13 Q. It was listed on more exchanges?

14 A. Correct.

15 Q. You were refer to -- you were  
16 just referring to paragraph 19 of your  
17 report, which is Exhibit 1, correct? You  
18 have that in front of you?

19 A. Yes.

20 MR. TOROSIAN: I think it was 18,  
21 but -- I thought he was referring to --  
22 (Simultaneous unreportable  
23 crosstalk occurs among parties.)

24 THE WITNESS: 19. 19 for Serum.

25 MR. TOROSIAN: I apologize.

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2 was the CEO of FTX?

3 Q. What is your understanding of Sam  
4 Bankman-Fried's role at FTX and Alameda?

5 A. My understanding is that he was  
6 the CEO of the company of FTX.

7 Q. And do you have any understanding  
8 one way or the other as to his involvement  
9 in the Serum project?

10 A. That one I don't know what kind  
11 of involvement he had.

12 Q. Have you ever heard the term "Sam  
13 coins" used?

14 A. I didn't know it before, but it  
15 was in Professor Howell's rebuttal.

16 Q. Prior to seeing that term in  
17 Professor Howell's report, you had not  
18 heard the term "Sam coins" used?

19 A. I had not heard of it, no.

20 Q. You testified a few moments ago  
21 you're not familiar with and don't use the  
22 term "fundamental value of tokens,"  
23 correct?

24 MR. ROSTOCKI: Objection to the  
25 form.

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THE WITNESS: Yes. So for my engagements for cryptocurrency, the scope is to value the tokens. So I'm not sure what the fundamental value means in that context.

BY MR. GLUECKSTEIN:

Q. When you say "value the tokens," how do you define -- when you say "value the tokens," what do you mean?

A. I mean what do they value for a willing seller and a willing buyer.

Q. As far as the price that you could trade the token?

A. Not necessarily trade, because it may not be traded. But the price that someone is willing to pay to buy the token.

Q. In your mind, is there any value in a token that goes beyond the price that a buyer and a seller would be willing to pay and receive?

MR. TOROSIAN: Object to form.

THE WITNESS: What do you mean?

Can you give me an example?

///

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BY MR. GLUECKSTEIN:

Q. Is there any value beyond the price -- let me strike that.

Your valuation of tokens is establishing the price that a buyer and seller would agree on for purposes of that token, correct?

A. Yes. Or for IRS purposes, what -- what are they valuing those tokens.

Q. And you're not offering any other valuation opinions with respect to the tokens other than that price, as you define it?

MR. TOROSIAN: Object to form.

THE WITNESS: What would be another opinion? I'm --

BY MR. GLUECKSTEIN:

Q. I'm just asking.

A. No, I understand. But I'm giving the value of the token.

Q. Okay. Mr. Konstantinidis, you -- your reports, you -- and you agree with the debtors here that discounts to the petition date spot pricing for Maps, Oxy and Serum

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need to be made, correct?

A. Yes.

Q. So you're not suggesting that there's any basis to value any of Maps, Oxy or Serum at the spot price on the petition date, right?

A. Correct.

Q. So the claims that were submitted by your clients in the debtors' bankruptcy cases with amounts based on petition date spot pricing are incorrect or unsupportable, correct?

MR. ROSTOCKI: Objection to form.

MR. TOROSIAN: Object to form.

THE WITNESS: I haven't read that document. But due to the volume of the trading volume, you cannot use the spot price as of the petition date for the whole block.

BY MR. GLUECKSTEIN:

Q. Sir, have you reviewed the motion that was filed by the debtors to estimate claims based on digital assets that we're here talking about today?

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A. Which motion are you referring to?

Q. Well, let's take a look at it. (Whereupon, Exhibit 3, is marked for identification.)

BY MR. GLUECKSTEIN:

Q. Sir, you have in front of you what is titled "Motion of Debtors to Estimate Claims Based on Digital Assets."

Do you see that?

A. Yes.

Q. Have you ever reviewed this document before?

A. I may have looked at it, but I don't remember the details.

Q. Do you have an understanding of what the debtors seek to do in this motion for which you were retained to provide your valuation?

MR. ROSTOCKI: Objection to form.

THE WITNESS: Not exactly, because that was out of scope -- out of the scope of what I did.

///

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2 BY MR. GLUECKSTEIN:

3 Q. So you looked -- you just looked  
4 at -- as you described it, you provided  
5 critiques of the debtors' experts, and you  
6 valued the tokens?

7 MR. ROSTOCKI: Objection to form.

8 THE WITNESS: That was the scope,  
9 yes.

10 BY MR. GLUECKSTEIN:

11 Q. Okay. All right. So you  
12 didn't -- you didn't do anything else with  
13 respect to consider what the debtors were  
14 asking the Court to do in connection with  
15 the opinion you were providing, correct?

16 A. Yes. I'm a valuation expert, so  
17 I valued the portfolios.

18 Q. You've described a few times as  
19 you valued your clients' portfolio of Maps,  
20 Oxy and Serum tokens, correct?

21 MR. ROSTOCKI: Objection to form.

22 THE WITNESS: Yeah.

23 BY MR. GLUECKSTEIN:

24 Q. You did not value Maps, Oxy or  
25 Serum with respect to any other customers

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2 A. Yes.

3 Q. And so consistent with that view  
4 in paragraph 49 of your report, you apply a  
5 different discount to the Serum held by  
6 Maps Vault Ltd. than to the tokens held by  
7 Oxygen Vault Ltd., correct?

8 A. Correct.

9 Q. And this is because under your  
10 methodology, you calculate the asset -- you  
11 calculate the discount based on the  
12 holdings of Serum for each of those clients  
13 individually, correct?

14 A. Yes.

15 Q. And so the result of applying  
16 different discounts is that there would be  
17 a different token value on the petition  
18 date for each of your clients, correct?

19 MR. ROSTOCKI: Objection to form.

20 THE WITNESS: Yes. But this is  
21 normal for those valuations when in the  
22 previous projects you asked me, a  
23 client comes and they want me to value  
24 the portfolio, I don't know what other  
25 clients are holding for the same

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2 of FTX, correct?

3 A. Correct.

4 Q. And you're not anywhere offering  
5 an opinion on the value of Maps, Oxy or  
6 Serum as of the petition date that would be  
7 applicable to other customers of FTX,  
8 correct?

9 A. Correct.

10 Q. And your opinion, as reflected in  
11 Exhibit 1, is that discounts to petition  
12 date prices should be made for each of your  
13 clients on a per-entity basis, correct?

14 A. Yes.

15 Q. All right. And you say that  
16 in -- if you look at paragraph 49 of your  
17 report.

18 A. Uh-huh.

19 Q. In paragraph 49 you say, "The  
20 result of this analysis as of the date of  
21 this report and based on the foregoing  
22 valuation methodology is that the  
23 appropriate discounts on a per-entity basis  
24 as of the petition date," and it goes on to  
25 list price -- discounts there, correct?

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2 assets. So you treat the portfolio  
3 isolated to everything else.

4 BY MR. GLUECKSTEIN:

5 Q. I understand. I'm just trying to  
6 understand what you did.

7 A. Uh-huh.

8 Q. So what you did, you calculated a  
9 discount based on the holdings of each  
10 individual client, and that gets you to  
11 potentially, as we see here, different  
12 discounts for different clients, correct?

13 A. Yes.

14 Q. And so under your methodology, if  
15 the debtors needed to calculate a discount  
16 and a price for each of its customers, it  
17 would need to do an individual analysis, as  
18 you did here for each of your clients,  
19 correct?

20 A. Not for all the tokens.

21 Q. But for these tokens. I'm  
22 talking about for these tokens.

23 A. Yes.

24 Q. Nowhere -- sir, nowhere in your  
25 analysis reflected in Exhibit 1 or

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Exhibit 2 are you accounting for the debtors' other holdings of Maps, Oxy or Serum other than the claims of your clients, correct?

A. Yes.

Q. Are you aware, sir, that more than 95 percent of the maximum supply of each of these tokens were in the possession of FTX and Alameda on the petition date?

A. This is a number that I believe it was in Professor Howell's report. I just didn't see the data verified that. But I wouldn't say yes or no just because I didn't see proof of that.

Q. So you don't know one way or the other?

A. I don't know for sure.

Q. Does that sound plausible to you?

A. I mean, if you had me to guess, it would sound plausible.

Q. In your view, though, those holdings are not relevant to your analysis in calculating the discount with respect to the claims of your clients, right?

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BY MR. GLUECKSTEIN:

Q. Plaintiffs meaning your clients.

A. Yeah, meaning the four entities.

Q. Yeah. So we can put them -- either way is fine. If you can put them together, do you have a sense on a combined basis the percentage of tokens that your clients hold compared to the debtors?

MR. TOROSIAN: Object to form.

MR. ROSTOCKI: Object to form.

THE WITNESS: It would be -- my guess would be that the percentage would be high for Maps and Oxy, but not necessarily for Serum.

BY MR. GLUECKSTEIN:

Q. And you say high for Maps and Oxy.

So of the 95 percent of the maximum supply held by the debtors, you're suggesting that there would be a high percentage of that that was held by your clients?

MR. TOROSIAN: Object to form.

THE WITNESS: I haven't seen the

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A. But from that 95 percent, these are gonna be the holdings --

Q. Uh-huh.

A. -- of the clients, because FTX would be serving as a custodian, correct?

Q. Are you suggesting that your clients hold all of that 95 percent or have claims to that 95 percent?

A. I haven't seen any data about how the tokens break down between my clients and the remaining tokens that FTX holds.

What I'm suspecting is if you're saying that FTX held 95 percent, some of the holdings would belong to those entities that I valued their tokens.

Q. Do you have any sense of the magnitude as to your clients' holdings as compared to other holdings of FTX in Maps, Oxy and Serum?

MR. TOROSIAN: Object to form.

THE WITNESS: Do you mean separately or together all the plaintiffs combined?

///

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data, but that's what I'm guessing.

BY MR. GLUECKSTEIN:

Q. And whatever the percentage is beyond your client's share of that 95 percent, you did not take that into account in calculating your discounts, correct?

A. Correct.

Q. In your analysis, what, if anything, do you assume will happen to the debtors' remaining holdings of Maps and Oxy beyond the tokens that are claimed by your clients?

A. What do you mean what will happen?

Q. What will the debtors do with those tokens?

MR. TOROSIAN: Object to form.

THE WITNESS: That was outside the scope. What I did was value the tokens.

BY MR. GLUECKSTEIN:

Q. And so you didn't take into account, though, whether the debtors needed



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2 to sell their tokens at the time your  
3 client was selling its tokens, correct?

4 A. Correct. Per your -- one of the  
5 first questions you asked, for me  
6 determining the way that the liquidation  
7 will take place is outside the scope of  
8 what I provided.

9 Q. But from a valuation perspective,  
10 you don't think it's relevant that the  
11 debtors will be selling a significant  
12 number of tokens at the same time that your  
13 clients are selling tokens; is that right?

14 MR. TOROSIAN: Object to form.

15 THE WITNESS: It's not relevant.  
16 For example, in the Celsius bankruptcy,  
17 they did a different way or at least on  
18 the plans was a different structure of  
19 liquidation to protect the smaller  
20 creditors.

21 Based on your plan, if you sell  
22 everything they have, as an investor  
23 that holds a thousand tokens, an  
24 investor that holds a million tokens  
25 would have the same discount, so it's

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2 irrelevant, how the debtors will decide how  
3 to do the liquidation.

4 Q. So if the debtors were to sell a  
5 billion Maps tokens on the same day as your  
6 clients, that has no impact on your  
7 discount analysis?

8 MR. TOROSIAN: Object to form.

9 THE WITNESS: But this is outside  
10 the scope of what I did. Because the  
11 debtors can also hold some of the  
12 tokens. They can have a completely  
13 different strategy. I think you asked  
14 me about strategies before, and that  
15 was outside the scope of what I did.

16 BY MR. GLUECKSTEIN:

17 Q. Okay. Again, sir, I'm just  
18 trying to understand.

19 So if you're -- so your testimony  
20 is that your methodology is unaffected by  
21 whether your clients are the only seller in  
22 the market or whether the debtors are  
23 selling a billion tokens at the same time?

24 MR. TOROSIAN: Object to form.

25 MR. ROSTOCKI: Object to form.

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2 not fair.

3 BY MR. GLUECKSTEIN:

4 Q. Okay. So aside from fairness,  
5 would -- from an economic perspective, from  
6 your methodology you're saying that if the  
7 debtors sold its tokens, it has no effect  
8 on the discount that you're -- that would  
9 be appropriate to apply to your clients'  
10 tokens?

11 MR. TOROSIAN: Object to form.

12 MR. ROSTOCKI: Object to form.

13 THE WITNESS: It does not have an  
14 effect, because I would need to know  
15 the specifics of the liquidation, which  
16 markets, potentially the decentralized  
17 exchanges. Based on my knowledge as of  
18 right now, it wouldn't have an effect.

19 BY MR. GLUECKSTEIN:

20 Q. And did you do anything to obtain  
21 an understanding of what the debtors intend  
22 to do with those tokens as far as a  
23 liquidation strategy?

24 A. Why would that -- that wouldn't  
25 affect my valuation. That's completely

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2 THE WITNESS: My opinion is that  
3 I valued the tokens as of the petition  
4 date and time, as an individual  
5 portfolio, which is the standard  
6 methodology especially for IRS  
7 purposes, without taking account of  
8 anything else that I do not control.

9 BY MR. GLUECKSTEIN:

10 Q. Okay. When you say standard  
11 methodology, are you talking in the context  
12 of an IRS valuation?

13 A. An IRS valuation or any  
14 valuation, when I have a project that  
15 somebody gives me a portfolio of digital  
16 assets, that's what I value.

17 Q. You spoke a moment ago, you used  
18 the term it would not -- you used the term  
19 "fair."

20 If the debtors Maps and Oxy is  
21 liquidated at a greater discount than you  
22 calculate for your clients, how do you  
23 understand customer claims based on those  
24 tokens that would be paid?

25 A. What do you mean if a debtors had

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2 a higher discount from what I had  
3 individually for tokens or per portfolio?

4 Q. So you have valued the portfolio,  
5 as you put it, of your clients' tokens,  
6 correct?

7 A. Uh-huh. Correct.

8 Q. If the debtors liquidate the  
9 entirety of their Maps and Oxy holdings and  
10 have to do so at a larger discount than you  
11 are opining, in your view, who should bear  
12 the cost of that shortfall?

13 MR. ROSTOCKI: Objection to form.

14 MR. TOROSIAN: Object to form.

15 THE WITNESS: There is no way to  
16 know if the discount would be more or  
17 less. I actually provided data from  
18 cryptocurrencies when large holdings  
19 are sold into the market, and sometimes  
20 the price can go up.

21 So that is something that in real  
22 life may not happen this way. It's a  
23 hypothetical. And these are  
24 cryptocurrencies.  
25 ///

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2 price?

3 A. Yes. And this is not only my  
4 opinion. This is a well-established  
5 percentage that's used in -- for tax  
6 purposes for large estates, not only by  
7 Stout, but by other reputable valuation  
8 firms.

9 And it has also been listed in  
10 the KO 2023 paper that does say that it's a  
11 reasonable assumption for individual stocks  
12 between 5 percent and 10 percent of daily  
13 trading volume without changing the price.

14 Q. Okay. So you're familiar --  
15 you're familiar with the 2023 KO paper?

16 A. Yes.

17 Q. Are you aware that in that paper,  
18 the authors state that even in highly  
19 liquidity markets, and even if quantities  
20 are traded -- quantities traded are  
21 restricted to 5 to 10 percent of daily  
22 volume, execution of large bets may lead to  
23 significant price changes?

24 A. I don't remember the context, but  
25 they talk about large bets, which is

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2 BY MR. GLUECKSTEIN:

3 Q. I think you agree with me, sir,  
4 that a large block of tokens cannot be  
5 liquidated as quickly as a few tokens,  
6 correct?

7 A. Yes.

8 Q. If you could look at Exhibit --  
9 look back again at Exhibit 1, which is your  
10 report. Paragraph 41, sir, which is on  
11 page 21.

12 A. Uh-huh.

13 Q. I'm sorry. 42.

14 A. Yeah.

15 Q. What are you describing in  
16 paragraph 42 of your report?

17 A. I'm basically describing the  
18 widely accepted assumption that I have that  
19 selling a block up to 10 percent of daily  
20 trading volume, one, would not affect the  
21 price.

22 Q. So it is your opinion that  
23 selling up to 10 percent of daily trading  
24 volume of Maps, Oxy and Serum could be done  
25 each day without any affect on market

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1 F. KONSTANTINIDIS - 02/27/2024  
2 different than transactions or blocks.

3 Q. Okay. Well, let's take a look at  
4 that.

5 (Whereupon, Exhibit 4, is marked  
6 for identification.)

7 BY MR. GLUECKSTEIN:

8 Q. So you refer to this -- is this  
9 the article that you were referring to in  
10 answer to your prior question about the --  
11 your 10 percent being accepted by Kyle and  
12 Obizhaeva?

13 A. Yes. It's one of my reference,  
14 but the most important is that this is an  
15 established percentage in the -- for the  
16 IRS purposes that we're using for  
17 valuation. That was my first reference.

18 Q. Right. Can you -- so let's --  
19 let's go there first.

20 So can you explain what you mean  
21 by an established -- an established  
22 valuation for IRS purposes?

23 A. What I mean is that the  
24 assumption that the 10 percent wouldn't  
25 depress price for a long periods of times

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1 F. KONSTANTINIDIS - 02/27/2024  
2 is used by Stout and other valuation firms  
3 based on individual traders, with market  
4 makers, with investment bankers.

5 And in Stout, our practice has  
6 about 200 valuation reports to IRS on a --  
7 on an annual basis. And that's one of the  
8 assumptions we used.

9 And the tax court never contested  
10 or audited that assumption, so it's a  
11 well-established assumption among valuation  
12 practitioners.

13 Q. And, in your opinion, that  
14 10 percent applies across the board to all  
15 cryptocurrencies?

16 A. Applies across the board to  
17 assets also, to all assets.

18 Q. All assets?

19 A. All assets that we use.

20 Q. It includes -- so any market for  
21 any asset, you could sell 10 percent into  
22 the market without any price affect?

23 A. Well, it depends. It depends on  
24 the market. It depends on many  
25 characteristics. But it's a very

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2 A. Yes.

3 Q. You've reviewed this previously?

4 A. Yes.

5 Q. Okay. If you turn to page 2192,  
6 which is part of the conclusions section,  
7 which starts on page 2191.

8 A. Uh-huh.

9 Q. On the top of page 2192 --

10 A. Uh-huh.

11 Q. -- has the language I referred to  
12 as part of their conclusions that, quote,  
13 "Even in a highly liquid markets and even  
14 if quantities traded or restricted to 5 or  
15 10 percent of daily volume, execution of  
16 large bets may lead to significant price  
17 changes," end quote.

18 Do you see that?

19 A. Yes.

20 Q. Do you disagree with that  
21 conclusion?

22 A. Well, they say "may lead."

23 Q. Uh-huh.

24 A. And also they provide tables. In  
25 this paper they try to -- and the other

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2 reasonable assumption for -- for most  
3 markets.

4 I don't want to be absolute, but  
5 definitely like I said before for  
6 cryptocurrency markets, we used it, and  
7 there was no contention or any issues with  
8 the assumptions. It's not the first time  
9 that I used that assumption.

10 Q. And that -- and you're saying  
11 there was no issue with using that  
12 assumption in submissions to the Internal  
13 Revenue Service?

14 A. Correct.

15 Q. Have you used that 10 percent  
16 assumption outside of the context of  
17 submissions to the IRS?

18 A. Well for financial reporting,  
19 like I said before, the volume is not  
20 something you take into account. So  
21 primarily you're using it for tax purposes.

22 Q. All right. So the document  
23 that's -- that was marked as Exhibit 4,  
24 this is the 2023 K&O paper that you said  
25 you were familiar with, sir?

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2 thing is they talk about bets, large bets,  
3 which may combine more than one  
4 transactions. In most cases they do.

5 And, secondly, in the tables  
6 where they understand the six market  
7 crashes, they do admit that their  
8 predictions are not accurate per the  
9 declines that happen in market crashes.

10 Thirdly, they're understanding  
11 how certain large bets may create market  
12 crashes or not. That was the purpose of  
13 the paper --

14 Q. Uh-huh.

15 A. -- which is completely different  
16 from what I'm doing.

17 And they also at the end of that  
18 paper on page 20 -- 2001 [sic], they talk  
19 about their inability to identify the crash  
20 based on the Soros trades and flash cross  
21 trades that they did not, as they expected,  
22 created market crashes.

23 So it's not an absolute, their  
24 statement, because there's the other  
25 statement somewhere else on the paper about

1 F. KONSTANTINIDIS - 02/27/2024  
2 the 5 to 10 percent that I'm trying to find  
3 that -- for individual stocks, that it  
4 doesn't affect the market price.

5 Q. But you would agree --

6 MR. TOROSIAN: Take your time.

7 THE WITNESS: Yeah.

8 BY MR. GLUECKSTEIN:

9 Q. -- sir, that it is possible that  
10 even if quantities traded are restricted to  
11 5 or 10 percent of daily volumes, there  
12 could be an affect on price change?

13 MR. TOROSIAN: Object to form.

14 THE WITNESS: No. I disagree.

15 This is an assumption I use and other  
16 competitors of us are using in the  
17 valuation reports, so this is a valid  
18 assumption.

19 BY MR. GLUECKSTEIN:

20 Q. Okay. So you disagree with this  
21 conclusion, which is one of multiple  
22 conclusions, but then you disagree with  
23 this conclusion that's set forth in the  
24 2023 K&O report?

25 MR. ROSTOCKI: Objection to form.

1 F. KONSTANTINIDIS - 02/27/2024  
2 analysis to support that assumption for  
3 purposes of this opinion?

4 A. I think I provided some  
5 cryptocurrency data that they show large  
6 trades, and we also -- I also did the  
7 analysis for the traditional stock market  
8 for the second -- secondary offerings.

9 But this is, again, an  
10 established percentage that practitioners  
11 are using. This is based on real-world  
12 data and interviews and decades of  
13 experience.

14 Q. Do you cite anywhere in your  
15 report any other practitioners or citations  
16 in the literature that agree that the  
17 10 percent is a reasonable assumption  
18 across the board?

19 A. I don't have any citations of the  
20 report.

21 Q. In your view, with respect to the  
22 market for Maps, Oxy and Serum, could there  
23 be some price impact above zero at the  
24 10 percent trading level?

25 A. No.

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2 MR. TOROSIAN: Objection to form.

3 THE WITNESS: I disagree, because  
4 in this paper they're not valuing  
5 assets, and they're trying to  
6 understand market crashes. So it's a  
7 completely different scope of what I  
8 did.

9 BY MR. GLUECKSTEIN:

10 Q. In terms of the purpose of the  
11 report is different, in your view?

12 A. But also the analysis they  
13 provide. They also do not see  
14 transactions. They see bets.

15 Q. Okay. And how do you see that as  
16 transaction versus bets leading to a  
17 different outcome?

18 A. Well, because bets are  
19 constructed differently. There may be a  
20 number of transactions altogether combined  
21 that it has a completely different modeling  
22 that they're trying to put into the market  
23 to understand pricing impact.

24 Q. You said that the 10 percent is a  
25 reasonable assumption. Did you perform any

1 F. KONSTANTINIDIS - 02/27/2024

2 Q. What level of volume increase  
3 would you expect a result -- to result in a  
4 nonzero price impact for Maps?

5 A. Well, my assumption is  
6 10 percent. So anything over 10 percent  
7 will potentially have a price impact.

8 Q. So at 10.1 percent we might see a  
9 price impact?

10 A. Yeah, I would say, on average,  
11 based on my assumption everything over  
12 10 percent, although it's still  
13 conservative, may potentially have a price  
14 impact.

15 Q. And because you're using the  
16 10 percent as a fixed assumption, that  
17 would be the same for Oxy and Serum as  
18 well?

19 A. Yes.

20 Q. Your blockage discount method  
21 assumes there will be block trading every  
22 single day in Maps and Oxy for four to five  
23 years depending on the token, correct?

24 A. Yes.

25 Q. And do you account for

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anywhere -- do you account anywhere for  
market expectations of these ongoing block  
trading day after day?

MR. ROSTOCKI: Objection to form.

THE WITNESS: No.

BY MR. GLUECKSTEIN:

Q. Do you think that the market at  
some point would recognize that there was  
block trading happening at this volume  
every day and adjust over time?

A. The cryptocurrency market is  
difficult to understand. So by selling,  
you create liquidity. So also the price  
can go up. There are other factors outside  
of what you control.

So you don't really know if it  
will go up or down. But, again, this is an  
assumption that has been used and approved.  
And I'm following just a well-known path  
for valuation practitioners.

Q. Okay. And when you say that this  
10 percent is well established by valuation  
practitioners, what is the basis for that  
statement other than your experience with

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A. (No audible response.)

Q. So each of the clients could sell  
10 percent into the market each day and not  
have any -- your assumption is not have any  
effect on price, correct?

A. Correct.

Q. So your three clients would be  
selling 10 percent each, 30 percent of  
their holdings each day, correct?

MR. TOROSIAN: Object to form.

THE WITNESS: For which you're  
talking?

BY MR. GLUECKSTEIN:

Q. Let's -- for Maps.

A. So what is the percentage you  
said?

Q. Well, you're saying each client  
who holds a token could sell 10 percent  
into the market each day without any effect  
on price, correct?

MR. TOROSIAN: Object to form.

THE WITNESS: Yes.

BY MR. GLUECKSTEIN:

Q. And if you had 50 clients, they

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the IRS?

MR. TOROSIAN: Object to form.

THE WITNESS: It is other  
competitors of Stout's are using it.  
Some of the reports are public, and  
they were made in the U.S. tax court  
about the 10 percent.

BY MR. GLUECKSTEIN:

Q. Do you cite any of those in your  
opinion?

A. I don't cite them, no.

Q. The 10 percent assumption applies  
to each of your clients individually,  
correct?

A. Correct.

Q. Okay. So it's a 10 percent -- is  
it a 10 percent increase in the overall  
market for Maps, or is it that your -- each  
of your clients could sell 10 percent per  
day?

MR. TOROSIAN: Object to form.

THE WITNESS: It's each client.

BY MR. GLUECKSTEIN:

Q. Each of the clients?

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could each sell 10 percent under your  
methodology, correct?

A. Correct. But, again, you see the  
portfolio's isolated, and that's what you  
do for normal projects. There's no way to  
investigate if somebody comes and have  
large amounts of cryptocurrency, what  
others are holding.

So that's the methodology. This  
is a special case that I happen to be the  
valuation expert for those entities. But  
in most of the cases, I do not know what  
others are holding. And every portfolio is  
treated differently.

MR. GLUECKSTEIN: Why don't we  
take a 5-minute break.

MR. TOROSIAN: Yeah, sure.

THE STENOGRAPHER: Off the  
record.

(Whereupon, a recess was taken at  
10:21 a.m.)

MR. GLUECKSTEIN: Back on the  
record.

///

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1 F. KONSTANTINIDIS - 02/27/2024  
2 BY MR. GLUECKSTEIN:

3 Q. Now, Mr. Konstantinidis, can you  
4 go back to Exhibit 1, which is your report.  
5 We were looking earlier at paragraph 49.

6 We discussed -- you set out in 49  
7 a discount rate for the tokens held by each  
8 of the DLA clients there, correct?

9 A. Yes.

10 Q. And in paragraph 50, then you  
11 calculate a value of those tokens based on  
12 the adjusted discounted price, correct?

13 A. Yes.

14 Q. Okay. And you testified this  
15 morning that you evaluated -- you valued  
16 each of the clients' portfolios of tokens  
17 as they used it, correct? That's the term  
18 you used?

19 A. Yes. That's the term I used,  
20 meaning things they had.

21 Q. So did you calculate that -- in  
22 this report here, did you calculate -- do  
23 you consider the Maps Vault Ltd. holdings  
24 to be one portfolio and Oxygen Vault Ltd. a  
25 second portfolio?

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2 A. Uh-huh.

3 Q. You state in the middle of  
4 paragraph 33, quote, "Large amounts of  
5 Maps, Oxy and Serum can be absorbed into  
6 the cryptocurrency market, and there is no  
7 reason to require a slow trading strategy,"  
8 end quote.

9 Do you see that in the middle --

10 A. Yes.

11 Q. Yeah. What do you mean by "large  
12 amounts" there in paragraph 33?

13 A. I mean more than 10, 15 percent  
14 of daily trading volume.

15 Q. And when you say "can be absorbed  
16 into the cryptocurrency market," do you  
17 mean can be absorbed without a price  
18 impact?

19 A. No. I mean they can be sold.  
20 They can be absorbed. They will not crash  
21 the market.

22 Q. They will not crash the market.

23 So it's your opinion that large  
24 amounts, 10 to 15 percent, in your words,  
25 of these at-issue tokens can be absorbed

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2 A. Yes.

3 Q. And then, so, similarly in the  
4 report in Exhibit Number 2 with respect to  
5 other clients, paragraph 24, the holdings  
6 of Foundation Elements would be a third  
7 portfolio?

8 A. Yes.

9 Q. And then Foundation Serendipity a  
10 fourth portfolio, correct?

11 A. Yes.

12 Q. So for purposes of your opinions  
13 here, you valued, in your parlance, four  
14 portfolios of tokens; is that correct?

15 A. Yes.

16 Q. Did you value any other  
17 portfolios of tokens?

18 A. No.

19 Q. Sorry to jump back, sir, but if  
20 you could go back to Exhibit 1, which is  
21 your report on behalf of the DLA clients.

22 Do you have that, sir?

23 A. Uh-huh.

24 Q. If you could look at paragraph 33  
25 of your report.

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2 into the market where there are buyers for  
3 those tokens?

4 A. My apologies. Let me -- more  
5 than 10 percent.

6 Q. More than --

7 A. Because obviously my opinion is  
8 up to 10 percent it won't depress the  
9 value.

10 So here I show six transactions  
11 that they are over 10 percent that the  
12 market can absorb without crashing.

13 Q. Okay. So we'll get to the six in  
14 a moment.

15 But your statement specifically  
16 about Maps, Oxy and Serum, so it's your  
17 testimony that in excess of 10 percent can  
18 be absorbed into the market on a daily  
19 basis without crashing the market?

20 A. I'm not making the claim about  
21 daily basis. The data show individual  
22 large tokens sold in the market.

23 Q. So it's just your general view  
24 that large amounts in excess of 10 percent  
25 of these three tokens can be absorbed into

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2 the market, meaning if you sold them, there  
3 would be a buyer?

4 A. Yes. But it's not only my view.  
5 I provided the data to support.

6 Q. And so the support for that  
7 statement are the examples that you list  
8 below in A through F?

9 A. Yes. These are some examples.  
10 But, in general, based on my professional  
11 judgment, that has happened in the past  
12 with other crypto tokens.

13 Q. Okay. And you cite six examples  
14 in your report.

15 Do you provide any other -- do  
16 you provide any other evidence of that view  
17 other than these six examples in  
18 paragraph 33?

19 A. I haven't provided any other  
20 examples, but also I'm relying on my  
21 experience with a cryptocurrency market  
22 where I have seen large trades do take  
23 place without destroying the market.

24 Q. Okay. If you could turn to  
25 paragraph -- I'm sorry. Before we do that.

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2 A. Uh-huh.

3 Q. -- do you see that?

4 A. Yes.

5 Q. Did you -- did you track what  
6 happened to the price of these six tokens  
7 in the six months following the block  
8 trade?

9 A. No, I didn't.

10 Q. Did you look at the effect of the  
11 price of this -- of these tokens at any  
12 point other than the one following day to  
13 assess the impact of the block trade?

14 A. Not that I recall. We may -- I  
15 may have done, you know, some review of the  
16 data, but not that I recall.

17 Q. All right. If we could turn now  
18 to paragraph 46 of Exhibit 1.

19 Can you explain to me what you're  
20 presenting in paragraph 46 of Exhibit 1 of  
21 your report?

22 A. Yes. For the blockers discount  
23 method, I did not want to assume an  
24 unrealistic assumption of constant value  
25 going forward, so I -- what I did was I

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2 So the six tokens that are listed  
3 in paragraph 33, how did you identify those  
4 tokens?

5 A. I did not identify the tokens. I  
6 was looking for large transactions. This  
7 is a random sample. I didn't pick them.

8 Q. This is a random sample of large  
9 transactions.

10 So there are others that you  
11 reviewed, other large transactions that you  
12 reviewed?

13 A. These are the ones that I found  
14 readily, because it's not -- it's time  
15 consuming to mine the blockchain.

16 Q. For these six examples that you  
17 list in paragraph 33, did you track what  
18 happened to the price over a longer period  
19 of time following these block trades?

20 A. Over a long period of time  
21 meaning?

22 Q. Well, you present here in  
23 paragraph 33, and you state the volume of  
24 the trade and then you say what happened to  
25 the price on the following day --

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2 used a CoinMarketCap API, and I used the  
3 criterion of the volume, the dollarized  
4 volume in USD to be between 1 million and  
5 30 million, which are relatively successful  
6 tokens.

7 And I found the average volume  
8 for the five years of their existence, and  
9 I applied that volume profile to Maps, Oxy,  
10 Serum.

11 Q. Okay. And how did you select  
12 those 20 cryptocurrencies?

13 A. The one selection was the daily  
14 volume as of the day that I -- around the  
15 API. So as of, let's say mid-January, that  
16 was their daily trading volume.

17 And then I sorted them based on  
18 market cap. And that's how I chose them.

19 Q. And you said that the data that  
20 you sourced for this information was from  
21 CoinMarketCap?

22 A. Correct.

23 Q. Did you analyze whether any of  
24 the 20 cryptocurrencies that are listed in  
25 Footnote 67 --

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A. Uh-huh.

Q. -- had any ties to FTX or Alameda?

A. No. Because the whole point was to understand cryptocurrencies outside the holdings to understand their volume growth.

Q. Did you analyze whether any of the 20 tokens listed in Footnote 67 --

A. Uh-huh.

Q. -- experienced any market distress the way that Maps, Oxy and Serum did due to the collapse of FTX?

A. You mean -- can you clarify? You mean before the petition date or after the petition date.

Q. Yeah. Before petition date. So at the time that you were looking at -- well, let's -- let me step back on that.

So the volume trends that you're presenting in paragraph 46, are those -- are those trends that occurred before or after the petition date?

A. There were some before and some after. The criterion was five years of

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based on my professional judgment, it didn't seem like they -- they were affected by major events.

BY MR. GLUECKSTEIN:

Q. But you didn't do any analysis on a token-by-token base into the qualitative events that might have been at issue for those tokens?

MR. TOROSIAN: Object to form.

THE WITNESS: No, I did go and review the volume. And before the FTX event, there was the Celsius event.

Before that, there was the Luna event.

So there were a number of events, obviously major articles. I prefer to get the data as is versus applying subjective criteria to demean the volume. Unless there is something that I definitely considered to be affecting that. But that wasn't the case.

BY MR. GLUECKSTEIN:

Q. And then how did you -- how did you apply the volume trends that you learned from that analysis to Maps, Oxy and

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existence of those tokens.

Q. So that could -- that could -- that could have spanned before or after the petition date; it was five years of existence from the time you did your analysis?

A. Correct. This is why I don't need to be having FTX holdings, because I wanted to be independent of the bankruptcy.

Q. But did you assess in any way whether those crypto -- those 20 cryptocurrencies had their own significant market-affecting events?

MR. ROSTOCKI: Objection to form.

THE WITNESS: Well, it's difficult to understand cause or relationship in the crypto market. Obviously there were major events before the FTX bankruptcy.

And it's difficult to demean or take the mean out or count all the events, because it's impossible to do in contingencies.

So I did review their volume, and

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Serum for purposes of your report here?

A. So I aligned, since their -- since their existence, I aligned those five years of existence for those tokens from Maps, Oxy, Serum. Calendar years. So Maps and Oxy had a prior year in existence, so I started year two.

And for Serum was two years in existence, so I start the volume profile at profile -- at year three.

Q. Did you use an average of the 20 cryptocurrencies in terms of the volume numbers?

A. Yes.

Q. Did you calculate a median of those numbers at any point in your analysis?

A. I had a median just to review, so I did calculate a median as well.

Q. And do you recall whether the median was higher or lower than the average?

A. The median was lower.

Q. Was it significantly lower?



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A. The median for the first year, the average was 850 percent, and the median was around 150 percent.

Q. 150 percent?

A. Yes.

Q. Nonetheless, you thought that the average was the more appropriate number to base the projected growth for purposes of the three at-issue tokens here?

A. I felt it was the average better represents your data. I did not feel that I had bad data, meaning data that I had to take out.

And the median does -- does not take out, you know, certain tokens, and I did want to include everything. I mean, which is the same thing, for example, that in Professor Howell's report, she is calculating average volume from different cryptocurrency markets. She does not calculate the median. She takes the average. For volume, the average is more representative than the median.

Q. And do you agree with

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So it did seem like this is -- this is reasonable. This is a reasonable growth rate.

BY MR. GLUECKSTEIN:

Q. From the 20 cryptocurrencies on which you base your value and projections, are you aware of any examples in your data in which -- in which significant large trades, 10 percent per day or more, were observed?

A. No. I haven't -- I haven't done this analysis.

Q. If the volume growth rates are slower than you assume, the liquidation of the three at-issue tokens would take longer, correct?

A. Yes.

Q. Potentially much longer?

A. Well, "much" depends on what is the growth rate that you're assuming.

Q. So if you had a -- you know, if you had a significantly lower growth rate, it could take decades to liquidate these

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Professor Howell's calculation that the trading volumes of both Maps and Oxy would increase by over 850 percent and Serum by more than 20 percent based on your projections?

A. Yes.

Q. And you think that the 850 -- based on your analysis of these 20 cryptocurrency value trends, you believe that the 850 percent is a reasonable projection?

MR. ROSTOCKI: Objection to form.

THE WITNESS: Yes, I believe it's a reasonable projection. Because I also reviewed other tokens to find out is it a real number. Did other tokens have a similar growth between the estimation period that Professor Howell has before the year before the petition date and one year after.

And it seems that over -- more than 20 cryptocurrencies that did have significant growths over 850 percent, you know, in the 5,000 percent range

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tokens at these volumes, correct?

A. When you say "significantly lower," what number range are you talking about for the growth rate?

Q. Let's say -- well, if you did the calculation to see how long it would take to liquidate these -- these tokens at the median level of I think you said 150 percent?

A. I did not do the calculation.

Q. Do you have any sense as to at 150 percent growth rate, how long it would take to liquidate these tokens versus your 850 percent projection?

A. It's a guess, obviously. So right now for the 850 percent, it takes 4 to 5 years, 4.8 to 5.1 depending on the token in the portfolio.

If you go from 850, you said what is the range? 100 percent --

Q. You said early --  
(Simultaneous unreportable crosstalk occurs among parties.)

///

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(Stenographer requests one speaker at a time.)

BY MR. GLUECKSTEIN:

Q. If you used the 150 percent median calculation --

A. Uh-huh.

Q. -- do you have an estimate as to how long it would take to liquidate the tokens?

A. Well, I would need to run the model again, but it's going to be more than five years.

Q. Significantly more?

A. Well, maybe --

MR. TOROSIAN: Object to form.

THE WITNESS: I wouldn't know the exact amount, but let's say somewhere between 20, 30 years, somewhere along those lines.

BY MR. GLUECKSTEIN:

Q. If we could look at -- back to Exhibit 1 of your report, paragraph 45.

A. Uh-huh.

Q. You state in paragraph 45 that

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A. Yes.

Q. And did you -- you didn't consider -- strike that.

You believe that the 24-hour average is also appropriate for pricing, not only volume, correct?

A. Yes. It has to be both, because they're highly correlated. When one goes up, the other goes down. So you can't have different intervals.

Q. Did you -- other than relying on your experience, did you do any sensitivity or other analysis to determine the 24 hours was the appropriate period?

MR. TOROSIAN: Object to form.

THE WITNESS: Sensitivity in what way?

BY MR. GLUECKSTEIN:

Q. Did you do any -- any analytical calculations as to why 24 hours is appropriate? Did you look at any other periods of time?

A. I did look at Mr. Lu's 60-minute interval for prices. I did look into

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the prices -- quote, "The prices and daily trading volumes used for the three tokens as of the petition date and petition time with a 24-hour average is for the 24 hours prior to the petition date and time."

Do you see that?

A. Yes.

Q. Why did you select 24 hours as the window to average prices?

A. Because I want to be as close as to the petition date, which is my valuation date.

Q. Why 24 hours versus some other time increment?

A. Well, the 24 hours is an established one. This is what CoinMarketCap, CoinGecko, other providers are using for average volumes. And also in my Celsius engagement, that's the one that I used. And the Court accepted the 24-hour average.

Q. You used 24-hour averages not only for volume here, you're saying also for pricing, correct?

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Professor Howell's one year prior to the CoinDesk article. So I did look in different intervals.

Q. And you did not make any adjustments or discounts to those numbers on the 24-hour average due to the unusual events surrounding the collapse of FTX, correct?

MR. ROSTOCKI: Objection to form.

THE WITNESS: What do you mean "unusual events?"

BY MR. GLUECKSTEIN:

Q. The fact that FTX was -- the public information about what was happening with FTX and the imminency of its bankruptcy.

A. I did see the window, the 24-hour and the window for Maps and Oxy did not take into account the spike, the increase in volume and the highly decrease in price that they did happen before that 24-hour window.

Q. I'm sorry. Can you repeat that answer?

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A. Yes. There was -- so that --

MR. TOROSIAN: Hold on. Do you want her to read it back, or do you want to ask a new question?

MR. GLUECKSTEIN: Fair.

THE WITNESS: Maybe read it back.

MR. GLUECKSTEIN: Let me see the answer.

BY MR. GLUECKSTEIN:

Q. I'll ask a different question.

When you say the window from Maps and Oxy did not take into account the spike, what are you referring to?

A. There was a large increase of volume and a highly deflated price before the 24-hour window for Maps and Oxy. That was not taken into account in my average.

Q. Any trading activity within the 24 hours immediately prior to the petition date is what would be included in your average, correct?

MR. TOROSIAN: Object to form.

THE WITNESS: This is included, yes.

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Howell?

A. None that I can think -- none that I can think of.

Q. And --

A. There may be others, but that's the one I identify.

Q. Okay. And what is the basis for your statement that LBank is a highly ranked crypto exchange?

A. Two data points. One, on the Coin Metrics rankings, LBank exist under Bibox. B-i-b-o-x. Bibox is Number 29, and LBank is Number 30.

The only difference between the two is the strengths of the grade. The API quality for Bibox is C minus, and the API quality for LBank is D. Bibox is used for Serum volume, so there's only one minor grade, but then LBank is not used for Maps.

Second data point is CoinMarketCap. In CoinMarketCap, which the rankings are quoted by Professor Howell in her rebuttal, so it's an established data aggregator for cryptocurrency, LBank is

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BY MR. GLUECKSTEIN:

Q. Your opinion is that Professor Howell's reliance on Coin Metrics's data for her analysis was not appropriate?

A. Correct.

Q. Why not?

A. Well, for Coin Metrics, she ignored a highly rated crypto exchange that would significantly increase the volume.

Q. And what's that crypto exchange?

A. LBank.

Q. Okay. Any other reason why Coin Metrics's data, in your opinion, is not the appropriate data set?

A. I would not say the Coin Metrics data. I would say the choice of the cryptocurrency exchanges used. Certain crypto exchanges were ignored without a reason, because they're ranked pretty high both in Coin Metrics and in CoinMarketCap.

Q. Okay. And you identified LBank as that exchange.

Are there any others, in your view, that were ignored by Professor

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either Number 21 or Number 23.

The rankings for another crypto exchange called Poloniex, P-o-l-o-n-i-e-x, is about 77, and it is used for Serum. And there is a -- the Bibox, which is used in Serum, is Number 147 in CoinMarketCap ranks.

So, as a result, LBank is a significant and trusted exchange for both Coin Metrics and CoinMarketCap. And that had been clearly ignored from Professor Howell's calculation of volume.

Q. Okay. So your view is that Professor Howell should have included the LBank volumes in her analysis, correct?

A. At least the LBank if she uses Coin Metrics. But also I used CoinMarketCap volume.

So as a secondary check to verify the volume, I would have used a second data aggregator, CoinMarketCap in this case, to understand what is the difference between the two for the simple reason those tokens, were traded in decentralized exchanges, and

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Coin Metrics does not take into account decentralized exchanges. CoinMarketCap does. So I considered its volume more accurate.

Q. Do you know whether Professor Howell's conclusion with respect to the discount applied to Maps and Oxy would decrease if she had included the LBank volumes?

A. I believe she put the additional volumes and the discount that the KO comes up or the transaction cost, rather, is significantly higher than 100 percent.

Q. So had she included the LBank exchange data, it's your understanding that Professor Howell still would have calculated a 100 percent discount with respect to Maps and Oxy, correct?

A. Well, this is because they -- it's not correct, because the KO model does not calculate discounts.

Q. Well, but -- I understand you have -- we'll talk about the KO model.

But under her methodology, it's

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Q. Do you believe that CoinMarketCap should be used to calculate the analysis of discounts for all of the debtors' digital assets or just the three tokens that you looked at?

A. I haven't done the analysis to understand if CoinMarketCap covers all of the digital assets. I know the analysis for those three.

But based on Professor Howell's analysis in the original report, she just used CoinMarketCap for about 44 digital assets.

Q. Do you know whether data aggregators do any analysis to determine whether the trades they report on are valid?

A. Yes.

Q. And what do they -- you know whether they do or they don't?

A. They do.

Q. They do.

And what's your understanding of what CoinMarketCap, in particular, does to

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your understanding that had she included those volumes, she still would have calculated a 100 percent discount, correct?

A. To be more accurate would be over 100 percent. So it's going to be more than 100 percent.

Q. You refer to CoinMarketCap as a data aggregator. What is that, in your view -- or your understanding of what a data -- strike that. Let me try that again.

Can you explain your understanding of what a data aggregator is?

A. A data aggregator goes to different exchanges where contingencies are traded and they extract volume, they extract prices or the metrics that they need to provide to parties that they need to use that data.

Q. And you testified that you believe that CoinMarketCap was the appropriate data source for this analysis, correct?

A. Correct.

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determine reliability?

A. So CoinMarketCap has certain measures about the liquidity score of a crypto exchange. They also used AI and machine learning methods to understand fake trading volumes or incorrect pricing.

They also have certain guidelines for the trade exchanges that they report data to them. And in many cases they either don't include it, but if they include it, they put asterisks that it's not reliable.

Q. And outside of reviewing what they make -- what CoinMarketCap makes available, did you conduct any analysis of your own to determine the reliability of their data?

A. No. But how would I do that?

Q. I'm just asking if you did.

A. No, there's no way to do that.

Q. Are you familiar with the 2019 paper that was authored by Bitwise Asset Management revealing that 95 percent of Bitcoin trading was fake volume or wash

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2 trading?

3 A. Yes, I am.

4 Q. What is your understanding of  
5 what wash trading is?

6 A. Wash trading is primarily when I  
7 as an investor use the same wallet ID or  
8 even multiple wallet IDs and I exchange  
9 volume among myself or some other people I  
10 know just to create inflated volume and  
11 inflated supply. So I will increase the  
12 price of that token.

13 Q. Do you have an understanding  
14 what -- other than wash trading, what fake  
15 volumes would refer to?

16 A. That would also refer to certain  
17 exchanges that for their own benefit and  
18 market data, nobody can regulate them. So  
19 they can report any volume they want just  
20 to create that vehicle that they -- they  
21 have a lot of transactions in their  
22 platform.

23 Q. Do you have a view as to whether  
24 a wash trading or fake volume is an issue  
25 at the exchanges reported on by

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2 problems are not pervasive in the  
3 CoinMarketCap aggregated data?

4 A. Correct. Yes.

5 Q. And the basis for that is what's  
6 been reported by CoinMarketCap to the  
7 public, correct?

8 A. Yes. My basis for that is the  
9 documentation they provide about the  
10 measures they take to protect whoever  
11 consumes that data.

12 Q. Did you exclude from any of your  
13 data, volume data, lower scoring exchanges  
14 that are reported by CoinMarketCap?

15 A. No. Because just like I believe  
16 in the original report by Mr. Lu, the data  
17 aggregators when you extract historical  
18 data, they do not provide the different  
19 cryptocurrencies that they correspond to.

20 Q. So isn't it true that one of the  
21 reasons that CoinMarketCap would reduce the  
22 rating of an exchange is because of  
23 concerns about their trading data?

24 A. In many cases, CoinMarketCap  
25 doesn't even include exchanges that they

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2 CoinMarketCap?

3 A. For which particular exchanges do  
4 you mean?

5 Q. For any of the exchanges that are  
6 aggregated by CoinMarketCap that are in  
7 your data.

8 A. I -- my understanding is that  
9 documentation -- and it's a fact that  
10 CoinMarketCap takes all these measures I  
11 talked about before to detect fake volume  
12 or incorrect pricing.

13 And after it does that, then it  
14 cleans out the data, and that's what it  
15 reports.

16 Q. Do you understand there to be  
17 a -- do you understand there to be reports  
18 that -- as recently as 2023 that wash  
19 trading and spot trading markets on  
20 unregulated exchanges remains a significant  
21 problem?

22 A. Yes. For certain markets that  
23 are unregulated, it's still a problem in  
24 cryptocurrency.

25 Q. And it's your view that those

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2 have low ranking. This is why I am relying  
3 on their data.

4 Q. But you would agree that there  
5 are, within the exchange pool that  
6 CoinMarketCap is reporting, there are  
7 higher ranked exchanges and lower ranked  
8 exchanges, correct?

9 A. But in most of the cases, they're  
10 the higher ranked exchanges that they  
11 provide. And based on the data I saw, for  
12 example, comparing Professor Lu -- excuse  
13 me, Professor Howell's volume with  
14 CoinMarketCap, she uses the 510,000 as the  
15 average volume for the estimation period.

16 If you add LBank to that, you  
17 get -- you get up to 1.7 million. And the  
18 CoinMarketCap reported volume is 1.8.

19 So there's 100,000 difference  
20 between the two, which I believe probably  
21 comes from a decentralized exchange or  
22 rating or any other reputable exchange that  
23 would provide that extra volume.

24 So based on the data I saw, it  
25 makes perfect sense that CoinMarketCap does

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2 use reputable exchanges for at least those  
3 three tokens.

4 Q. CoinMarketCap, you do --  
5 paragraph -- if you could look at  
6 paragraph 24 of your report, Exhibit 1.

7 You note there your view that the  
8 Howell report, quote, "Completely ignores  
9 trading volume that takes place in  
10 decentralized exchanges," end quote.

11 Decentralized exchange data is  
12 presented in the CoinMarketCap data that  
13 you review, correct?

14 A. They may or they may not.

15 Q. So are you suggesting that there  
16 was additional decentralized exchange data  
17 that needs to be included beyond the  
18 CoinMarketCap source that you relied on?

19 A. No, I'm not suggesting anything,  
20 because I used the CoinMarketCap data  
21 volume. But what I'm recommending is there  
22 is probably extra volume coming from  
23 decentralized exchanges.

24 Q. And you haven't sought to  
25 quantify that beyond what's already

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2 volumes that were reflected in CoinGecko or  
3 Coin Paprika?

4 A. No, I did not.

5 Q. You criticize Dr. Howell's use of  
6 the KO model in her calculation of asset  
7 liquidation discounts, correct?

8 A. Correct.

9 Q. And specifically, paragraph 31 of  
10 your report, if you could take a look at  
11 that.

12 You conclude in paragraph 31 that  
13 the Howell report never confirms the main  
14 KO model hypothesis is true by calculating  
15 the two variances based on cryptocurrency  
16 data.

17 Have you done any analysis that  
18 leads you to conclude that the variance  
19 hypothesis does not apply to cryptocurrency  
20 data?

21 A. No, I have not. But when you use  
22 a model, you have to first check if it  
23 meets those requirements before you run it.

24 Q. Is it your position that, in your  
25 view, Professor Howell did not adequately

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2 reflected in the CoinMarketCap data that  
3 you used, correct?

4 A. Well, what I did is, because  
5 those coins were trading in two  
6 blockchains -- these are SPL. This is  
7 Solana tokens. This is the primary chain  
8 that they reside, but they also reside on  
9 Ethereum, which much lower volume.

10 What I did was I did mine the  
11 Solana blockchain, and I found the volume  
12 that corresponds to the three tokens. And  
13 I provide that, but I didn't use it. I  
14 just used CoinMarketCap.

15 I am -- basically provided an  
16 extra data point that clearly shows there  
17 is volume, significant volume outside the  
18 centralized exchanges.

19 Q. And you use all of the data  
20 that's reported by CoinMarketCap, you  
21 didn't exclude any CoinMarketCap data,  
22 correct?

23 A. I used -- yes, I used everything  
24 that CoinMarketCap reports.

25 Q. Did you use any of the trading

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2 establish or that the KO model does not  
3 apply to cryptocurrency?

4 A. My opinion is that the KO model  
5 is not a discount model, first of all.

6 And then, secondly, it cannot be  
7 applying to anything outside of the data  
8 that it was used for.

9 Q. Can you elaborate on what you  
10 mean by cannot be used -- cannot be applied  
11 to anything outside of the data that it was  
12 used for?

13 A. Yes. In the 2016 paper, it's  
14 using portfolio transition orders. This is  
15 when an investor call a broker and they  
16 move -- they make certain moves on the  
17 market for them, buy or sell.

18 The KO model is based on the idea  
19 of a bet, which is statistically  
20 independent, two bets from each other,  
21 which means that these are not  
22 transactions. You need to know the mind of  
23 the investor.

24 In the cryptocurrency market,  
25 when I have a transaction, it's spread out

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into five or six or ten, so it's impossible to know, oh, this transaction -- do this transaction belong to one bet or these are 10 different bets.

So, first of all, this is not practical to understand what a bet is, so you cannot use it in the cryptocurrency market.

The second point is unlike the normal discount models, Finnerty, Chaffe, Longstaff, Ghaidarov, we clearly say these are discounts, and they checked against benchmark data. The KO model never makes a case about being a discount model.

So for those reasons, it cannot be applied outside the data set it was used for.

Q. You're not aware of any -- you're not aware of any situation where the KO model was applied to cryptocurrency?

A. For which purposes?

Q. For any purpose. You said it can't be used for cryptocurrency markets.

MR. TOROSIAN: Objection to form.

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Q. To aid in calculating the discounts to value for purposes of valuing claims.

A. It cannot use as a discount model not only for cryptocurrency, but any market, because it doesn't claim it's a discount model.

Q. So you're saying it has to claim it's a discount model in order to be applicable?

MR. TOROSIAN: Object to form.

MR. ROSTOCKI: Objection to form.

THE WITNESS: Yes. Two things have to happen. The authors of the paper, they have to say I'm calculating discounts.

Secondly, the model has to be tested against real-world data, benchmark data just like all the other discount models to understand if it overstates and understates discount and how accurate it is.

BY MR. GLUECKSTEIN:

Q. So you've never taken a model and

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THE WITNESS: There is one paper cited by Professor Howell that they used not the KO 2016, but they used a KO 2023 model. So it's not the same one to understand illiquidity and also rank crypto exchanges.

So it was used based -- for on transaction costs. And the two cryptocurrencies were Bitcoin and Ether.

And the paper does conclude that in highly volatility periods, the KO estimator is not accurate. And obviously in the case of Maps, Oxy and Serum, even for studying illiquidity, the volatility is very high.

BY MR. GLUECKSTEIN:

Q. So is it your view that the model -- the KO model cannot be applied to any cryptocurrency or simply, in your view, it would not be appropriate for Maps, Oxy and Serum given the volatility?

A. Applied as what? The model to be applied as what exactly, to do what?

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applied it in a different context from the context in which it was created?

MR. TOROSIAN: Object to form.

THE WITNESS: No.

BY MR. GLUECKSTEIN:

Q. No, you've never done that?

A. No.

Q. And you don't think that could be done?

A. Of course not.

Q. What was the scope of the valuation -- cryptocurrency valuation project that you undertook in Celsius?

A. It was to value all the cryptocurrency holds for financial reporting purposes.

Q. And in your portion of the report that you worked on on valuing the cryptocurrency, did you apply a discount model there?

A. I applied discount on -- in one of the -- not on the final valuation, but on a previous one for staked Ether.

Q. That was the only discount you

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2 applied to that portfolio?

3 A. As far as I remember, that's what  
4 comes to mind. But this was not the final  
5 valuation. Because on the final valuation  
6 on those staked tokens were unstaked, so  
7 they were at market value at this point.

8 Q. Did the report that you submit --  
9 that you submitted there in the Celsius  
10 case, did you rely on the Finnerty model?

11 A. Yes, yes, for the --

12 Q. For what?

13 A. For the discount of the staked  
14 tokens.

15 Q. And you did not apply, in that  
16 case, the Chaffe model, correct?

17 A. No. This was primarily for  
18 financial reporting for staked tokens.

19 Q. And so there you concluded that  
20 the appropriate model to use was only the  
21 Finnerty model for that purpose?

22 A. The Finnerty model is more  
23 accurate than the Chaffe. The Chaffe  
24 always overstate discounts. So I use the  
25 Finnerty model in this case.

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2 we know that one overstates discount and  
3 the other understates it. So it's an  
4 average of the two.

5 MR. GLUECKSTEIN: Why don't we  
6 take just a short break.

7 THE STENOGRAPHER: Off the  
8 record.

9 (Whereupon, a recess was taken at  
10 11:33 a.m.)

11 MR. GLUECKSTEIN: Back on the  
12 record.

13 BY MR. GLUECKSTEIN:

14 Q. Mr. Konstantinidis, we were  
15 talking before the break about how you used  
16 the Finnerty and Chaffe models in your  
17 analysis here.

18 Do you recall that?

19 A. Yes.

20 Q. Those models are based on studies  
21 of restricted shares of stock and not  
22 digital assets, correct?

23 A. Correct.

24 Q. We were talking earlier this  
25 morning about the fact that you used the

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2 Q. Why do you say the Chaffe model  
3 always overstates the discount model?

4 A. Because all of the discount  
5 models are checked against really data from  
6 private placement of restricted stocks to  
7 understand if the equation gives you lower  
8 discounts than the real life or aggregate  
9 higher discounts.

10 So the Chaffe, when tested  
11 against real-world data, it's been  
12 established in the valuation community that  
13 it does overstate discounts for high  
14 volatilities, especially over 65 percent or  
15 so.

16 Q. The Finnerty model has a maximum  
17 cap on the discount it can provide,  
18 correct.

19 A. Correct. The closed form, yes.

20 Q. And for purposes of your analysis  
21 here, am I correct that you -- for purposes  
22 of this case, am I correct that you decided  
23 to employ not only the Finnerty model but  
24 also the Chaffe model and take an average?

25 A. Yes. And the reason was because

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2 24-hour average. You can look again at  
3 your report in paragraph 45, Exhibit 1.

4 A. Uh-huh.

5 Q. The 24-hour average for not only  
6 volumes but for price --

7 A. Uh-huh.

8 Q. -- do you recall that?

9 A. Yes.

10 Q. Can you explain or elaborate  
11 further on why your opinion, the average  
12 price for the 24 hours prior to the  
13 petition date provides an appropriate  
14 petition date price?

15 MR. TOROSIAN: Object to form.

16 THE WITNESS: The reason for that  
17 is because I wanted to use the same  
18 time interval for volume and pricing.  
19 They're highly correlated, obviously  
20 when volume goes up, price goes down  
21 and vice versa. So it's standard  
22 practice to just use the same time  
23 window.

24 The other reason for the pricing  
25 is the fact that cryptocurrencies trade



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24/7. And it's well known that the high activity on those markets happens between 9:00 a.m. and 4:00 p.m. local time.

So you will lose -- if you go too close, you may lose some of those crypto exchanges. And as a standard practice, that's the average I'm using.

BY MR. GLUECKSTEIN:

Q. When you say "standard practice," so you didn't select the 24 hours for this case, in particular?

A. I used the same one in Celsius for spot prices. I generally for -- when I try to find pricing, I do go 24 hours.

Now, there may be other cases, based on data or modeling or whatever else, but that's a normal window I've been using.

Q. Would there be circumstances where 24 hours, in your opinion, would not be the appropriate time period to use for price?

A. I mean, there may be. I don't want to exclude it completely. There may

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report, paragraph 46, with respect to the volume trends from the 20 cryptocurrencies.

A. Uh-huh.

Q. Do you recall that testimony?

A. Yes.

Q. Can you elaborate further as to how you chose those 20 cryptocurrencies that went into your analysis?

A. Yes. I used a CoinMarketCap API. The criterion was 1 million to 30 million current trading volume. They're all in the Ethereum blockchain, which was established in 2015.

For that reason, I wanted to -- I want to ensure the tokens I choose, they do have a good period of time, because I know for a fact that the vesting schedule and liquidation is five years for my tokens at hand to value.

And then I sorted them based on market cap, and that's how I chose those tokens.

And I also wanted to ensure that one other criteria was that they're not

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be.

Q. You didn't do any analysis here, though, to confirm that 24 hours was appropriate on these facts other than it being your standard practice, correct?

MR. TOROSIAN: Object to form.

THE WITNESS: I did look into, like, Mr. Lu took the 60 minutes before the petition date. I did look on, you know, an hour before, 48 hours.

I did -- I wanted to make sure what I'm doing obviously doesn't include high or low. Like I said before, it doesn't include for Maps and Oxy the high spike I saw in the data at some point.

But from a valuation standpoint, I also want to do justice and want to go as close as I can to my valuation date, which in this case is my petition date and time.

BY MR. GLUECKSTEIN:

Q. We talked earlier this morning about the following paragraph in your

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stable coins, fiat-backed stable coins.

Q. Were there other tokens that you identified that met your criteria, or was 20 the total universe that you identify?

A. I felt like that for finding in the average, the 20s is a reasonable number to find the average volume for the volume profile, but I did not look into less or more tokens.

Q. So you didn't identify additional tokens that you excluded from your data set of the 120?

A. I don't recall excluding any -- any tokens, at least, to my knowledge. Unless there may have been some issue with the data that were retrieved, but I don't recall excluding them.

Q. And you say you wanted to not include stable coins. Why is that?

A. Well, the reasoning for that is for stable coins, generally speaking, they may fluctuate too wildly or maybe they're extra conservative, so it feels like they're on the edges on an arch.

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2 And I wanted to make sure that I  
3 don't have at least fiat-backed stable  
4 coins in my data. So that's my reasoning  
5 behind that.

6 Q. Do you have any understanding  
7 where -- sorry.

8 Footnote 67 down at the bottom of  
9 that page, you list -- these are the 20  
10 cryptocurrencies that you selected,  
11 correct?

12 A. Yes.

13 Q. Do you have any understanding  
14 of what the token PAXG is that's listed  
15 there?

16 A. That's a PAX token that I  
17 believe it's gold pegged from the PAX  
18 ecosystem.

19 Q. Is that token, in fact, a stable  
20 coin?

21 A. The CoinMarketCap assigns it as a  
22 non-stable coin on their API.

23 Additionally, the data that the  
24 opposing expert sent to me, they also  
25 verified the same thing that the API as

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2 I don't know, anybody from the  
3 UCC on?

4 MR. TOROSIAN: Ken, do you have  
5 any questions for the committee?

6 MR. PASQUALE: No, no, I don't.  
7 Thank you.

8 MR. TOROSIAN: Great. I have no  
9 questions.

10 Reed Smith, do you have anything?

11 MR. ROSTOCKI: Nothing.

12 MR. TOROSIAN: Thank you. We'll  
13 reserve signature.

14 THE STENOGRAPHER: Did you need a  
15 rough draft?

16 MR. TOROSIAN: Yeah.

17 THE STENOGRAPHER: Do you need  
18 the final expedited?

19 MR. TOROSIAN: Yes.

20 THE STENOGRAPHER: To what?

21 MR. TOROSIAN: Could you do by  
22 the end of the week?

23 THE STENOGRAPHER: Yes.

24 What did you need?

25 MR. ROSTOCKI: If we can get a

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2 from CoinMarketCap assigned it as a  
3 non-stable coin.

4 Q. So the basis on which you  
5 determine that was a non-stable coin was  
6 simply based on the API data that you  
7 reviewed from --

8 MR. TOROSIAN: Object to form.

9 THE WITNESS: It was -- yes, it  
10 was based on the CoinMarketCap API.  
11 BY MR. GLUECKSTEIN:

12 Q. Just to confirm,  
13 Mr. Konstantinidis, you never worked  
14 professionally at any point as a trader,  
15 whether it be a crypto trader or any other  
16 type of trading of -- did you?

17 A. You mean professional trading  
18 or --

19 Q. Professional, professional.

20 A. No, no.

21 MR. GLUECKSTEIN: I have no  
22 further comment -- no further  
23 questions.

24 I don't know whether the  
25 committee does, so we should ask.

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2 rough as soon as possible and final end  
3 of the week.

4 (Time noted: 12:13 p.m.)  
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## REPORTER CERTIFICATE

I, the undersigned, do hereby certify:

That FOTIOS KONSTANTINIDIS was by me duly sworn in the within-entitled cause; that said deposition was taken at the time and place herein named; and that the deposition is a true record of the witness's testimony as reported by me, a disinterested person, and thereafter was transcribed.

I further certify that I am not interested in the outcome of the said action, nor connected with, nor related to any of the parties in said action, nor to their respective counsel.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of March, 2024.

\_\_\_\_\_  
JESSICA R. WAACK

Registered Diplomat Reporter

Certified Realtime Reporter

California Certified Realtime Reporter

New York Realtime Court Reporter

New York Association Court Reporter

Notary Public, State of New York

CCR-NJ (No. 30XI008238700) CSR-TX (No. 11958)

CCR-WA (No. 21007264), CSR-CA (No. 14420)

## DECLARATION UNDER PENALTY OF PERJURY

IN RE: FTX TRADING

Date of Deposition: February 27, 2024

I, FOTIOS KONSTANTINIDIS, hereby certify under penalty of perjury under the laws of the State of \_\_\_\_\_ that the foregoing is true and correct.

Executed this \_\_\_\_ day of \_\_\_\_\_, 2024,  
at \_\_\_\_\_.

\_\_\_\_\_  
FOTIOS KONSTANTINIDIS

SUBSCRIBED AND SWORN BEFORE ME

THIS \_\_ DAY OF \_\_\_\_\_, 20

\_\_\_\_\_  
NOTARY PUBLIC

MY COMMISSION EXPIRES: \_\_\_\_\_

## INSTRUCTIONS TO WITNESS

Please read your deposition over carefully and make any necessary corrections. You should state the reason in the appropriate space on the errata sheet for any corrections that are made.

After doing so, please sign the errata sheet and date it.

You are signing same subject to the changes you have noted on the errata sheet, which will be attached to your deposition.

It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.

## ERRATA SHEET

IN RE: FTX TRADING

WITNESS: FOTIOS KONSTANTINIDIS

Date of Deposition: February 27, 2024

Reason Codes: 1. Clarify the record  
2. Conform to the facts  
3. Correct transcription errors

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\_\_\_\_\_  
FOTIOS KONSTANTINIDIS